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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, : Case No. 2:17-cr-00184-JD-1
:
Plaintiff(s), : Philadelphia, Pennsylvania
: October 17, 2017
v. : 2:19 p.m.
:
YOUNIES BAYOUMY, :
:
Defendant(s). :
.....

TRANSCRIPT OF TRIAL STATUS HEARING
BEFORE THE HONORABLE JAN E. DUBOIS
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For the Plaintiff(s): Alan J. Borowsky, Esquire
DE CTY Office of the DA
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For the Defendant(s): Kathleen M. Gaughan, Esquire
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U.S. District Court

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KATE BARKMAN, Clerk
By KK Dep. Clerk

JA

1 (Call to Order of the Court.)

2 THE COURT: Good afternoon, everyone. Please be
3 seated.

4 ALL: Good afternoon, Your Honor.

5 THE COURT: I call the case of the United States of
6 America versus Younies Bayoumy, Criminal Number 17-184. The
7 case was scheduled for trial to begin on June 26th, 2017, and
8 it was continued by Judge Davis until further order of the
9 court. That order was entered in May and no trial date has
10 been set. The case was recently transferred to my calendar,
11 and I think the first of order of business is to set a trial
12 date, but I'll hear first from the Government and then from
13 the Defense.

14 MR. BOROWSKY: Good afternoon, Your Honor. Alan
15 Borowsky on behalf of the Government. Your Honor, I'll defer
16 to the Defense to place whatever they might need to on the
17 record for the purposes of scheduling. I'll be available to
18 try the case --

19 THE COURT: Well, first answer the question, is the
20 next thing that has to be done, the only thing that has to be
21 done, scheduling the trial date?

22 MR. BOROWSKY: I believe so, Your Honor. As far as
23 I know, there are no outstanding discovery issues. I think
24 that the Defense and the Government might still have a few
25 things to talk about with regard to plea negotiations, but I

1 think at this point, we're prepared to go forward with
2 motions and then ultimately a trial date.

3 THE COURT: Fine.

4 MS. GAUGHAN: Thank you, Your Honor. Your Honor, I
5 was assigned this matter in late August. Mr. Patchen from my
6 office originally was representing Mr. Bayoumy, so I think
7 that the Government's assessment is accurate. I think that
8 we do still have some discussions, but that I think that, at
9 this time, the best course of action would be to schedule a
10 trial date. And if those discussions become fruitful, we
11 would certainly come before the Court on an earlier date, but
12 I agree, at this point, we should get a date for trial. And
13 there are no outstanding discovery issues either, that's
14 accurate as well.

15 THE COURT: Okay. Does the Defense contemplate
16 filing any additional -- well, I guess there was one pretrial
17 motion filed, the first Motion for a Continuance. Does the
18 Defense anticipate filing any other pretrial motions?

19 MS. GAUGHAN: Your Honor, at this time, possibly,
20 but I don't believe so. In an abundance of caution, Judge, I
21 would just ask you give a date for motions so we would have
22 that as well.

23 THE COURT: All right. Tell me when.

24 MS. GAUGHAN: I am starting a trial on Thursday and
25 I have a case that goes to trial in November. If we could

1 give it a mid November date or late November date for motions
2 if the Court has any availability or into December,
3 whatever's more convenient.

4 THE COURT: We're talking about the motion date --

5 MS. GAUGHAN: Yes.

6 THE COURT: -- so it's the date by which you can
7 file additional motions.

8 MS. GAUGHAN: Right.

9 THE COURT: I think one month, November 17th should
10 be sufficient, but you tell me.

11 MS. GAUGHAN: Judge, I'm starting a case on the
12 20th. I would just ask -- and it's not a long case, it's
13 probably about four days, if we could just go beyond that.
14 If we could go the later part of that week, like, at the end
15 of November, November 30th.

16 THE COURT: All right. The Government response.

17 MR. BOROWSKY: I'm agreeable to that date, Your
18 Honor.

19 THE COURT: Pardon me?

20 MR. BOROWSKY: That should be fine, Your Honor, I'm
21 agreeable, November 30th.

22 THE COURT: It's -- well, November 30th is the date
23 the Defense is going to file the motion. You've got to file
24 a response, we'll give you a week.

25 MR. BOROWSKY: Okay.

1 THE COURT: And that will take us to December 7th.
2 Do you anticipate this motion will require a hearing?

3 MS. GAUGHAN: Possibly.

4 (Pause in proceedings.)

5 THE COURT: December 15th, that's a Friday, at 2
6 p.m., a hearing on any motions requiring a hearing.

7 (Pause in proceedings.)

8 THE COURT: Do it at 10 o'clock.

9 MS. GAUGHAN: 10 a.m., Your Honor?

10 THE COURT: Yes. Friday, December 15th, 10 a.m.
11 That's a hearing on any motion requiring a hearing. I want a
12 status report on trial November 23rd. I know you'll -- you
13 may or may not be on trial. This is a very short letter that
14 tells me case on trial -- case going to trial or case not
15 going to trial.

16 MS. GAUGHAN: Understood.

17 THE COURT: It's not designed to require a decision
18 by that date, just to tell me the status of the trial as of
19 that date.

20 MS. GAUGHAN: Okay.

21 THE COURT: If you haven't -- if the Defendant
22 hasn't decided, then just say that.

23 MS. GAUGHAN: Okay.

24 THE COURT: All right. Now we have to pick a trial
25 date.

1 (Pause in proceedings.)

2 THE COURT: I think the first available date I have
3 is January 8th. What is your schedule?

4 MS. GAUGHAN: Judge, I'm starting a trial before you
5 on January 16th, the Thomas Bradley matter.

6 THE COURT: Yes.

7 MS. GAUGHAN: Will -- I mean, I know I have to send
8 a letter, but I'm pretty confident that that will be a trial.
9 Is it possible to go the next available date after that trial
10 date?

11 THE COURT: Yes.

12 MS. GAUGHAN: Thank you.

13 THE COURT: My notes tell me that Bradley will take
14 four days or so to try.

15 MS. GAUGHAN: That's accurate.

16 THE COURT: That will be the whole week.

17 MS. GAUGHAN: Right.

18 (Pause in proceedings.)

19 THE COURT: February 12th.

20 MS. GAUGHAN: That's fine.

21 MR. BOROWSKY: That's fine with me, Your Honor.

22 THE COURT: Good. 2/12/18, 10 a.m., this courtroom.
23 You're both attached for trial. Trial length about, what,
24 four days?

25 MS. GAUGHAN: I think so, Your Honor, yes.

1 THE COURT: Trial documents, proposed voir dire
2 questions, proposed points for charge, proposed verdict
3 sheet, trial memoranda. We'll want them -- let me take a --
4 January 22nd. That's the date you start. Let me look. When
5 is Bradley starting?

6 MS. GAUGHAN: That's the 16th, Judge.

7 THE COURT: Okay.

8 MS. GAUGHAN: That's fine. The 22nd's fine.

9 THE COURT: All right. January 22nd. If you need a
10 few days longer, you'll let us know.

11 MS. GAUGHAN: I think that should be fine, Judge,
12 thank you though.

13 THE COURT: All right. This isn't really a
14 continuance motion, it's a -- we've scheduled a status
15 conference. What we've done, we've set the case for trial
16 and the schedule will be reflected in a trial order. I don't
17 think there's any need to colloquy the Defendant. Well, I'm
18 going to change my -- what I just said. I am going to
19 question the Defendant about what we've just done. He can
20 remain seated.

21 This case was assigned to another judge, Judge Legrome
22 Davis, and while it was on his calendar, it was listed for
23 trial to begin on June 26th, 2017. Do you recall that?

24 MR. BAYOUMY: Yes, Your Honor.

25 THE COURT: Your attorney filed a Motion for Trial

1 Continuance and that was granted. Are you aware of that?

2 MR. BAYOUMY: Yes.

3 THE COURT: You have a right to go to trial within
4 70 days of your first appearance in court and that's subject
5 to a number of exceptions. Do you understand that?

6 MR. BAYOUMY: Yes, I do.

7 THE COURT: Judge Davis did not assign the case to
8 trial. What he said in his order was the trial is continued.
9 Let me get his order. A new trial date is to be set in the
10 future and that's what we're doing now. Do you understand
11 that?

12 MR. BAYOUMY: Correct.

13 THE COURT: Because of conflicts of counsel and the
14 Court's calendar, the first available trial date is February
15 12th, 2018. Do you understand that?

16 MR. BAYOUMY: Yes.

17 THE COURT: Do you agree to waive your Speedy Trial
18 Act rights to the extent of any delay in bringing the case to
19 trial before February 12th, 2018?

20 MR. BAYOUMY: Yes, Your Honor.

21 THE COURT: Do you agree that that delay may be
22 excluded in calculating the time within which the case must
23 be brought to trial under the Speedy Trial Act?

24 MS. GAUGHAN: May I have just a minute?

25 THE COURT: Yes.

1 (Counsel and Defendant confer.)

2 MS. GAUGHAN: Thank you, Your Honor, I've had a
3 chance to clarify.

4 MR. BAYOUMY: Yes, I accept these terms, Your Honor.

5 THE COURT: Fine. Do you have any questions about
6 that?

7 MR. BAYOUMY: No, Your Honor.

8 THE COURT: The idea behind what we did is to allow
9 your attorney sufficient time to look at the possibly of --
10 well, filing additional motions, such as a Motion to
11 Suppress, continuing discussions with the Government about a
12 non-trial disposition, reviewing the discovery with you and
13 if the case doesn't result in a guilty plea, preparing the
14 case for trial all designed to give her enough time to do
15 that. Do you understand that?

16 MR. BAYOUMY: Yes, I do, Your Honor.

17 THE COURT: All right. On that note, I'll end the
18 proceedings. As I've said, we're continued to February 12th,
19 2018. Specially listed for trial that date. You're both
20 attached.

21 MS. GAUGHAN: Thank you, Your Honor.

22 MR. BOROWSKY: Thank you, Your Honor.

23 THE COURT: Have a good --

24 THE CLERK: All rise.

25 THE COURT: Court's adjourned. Have a good day.

1 (Court adjourned at 2:36 p.m.)

2 CERTIFICATE

3 I certify that the foregoing is a correct transcript from the
4 electronic sound recording of the proceedings in the above-entitled
5 matter.

6

7 /s/April J. Foga

October 25, 2017

8 April J. Foga, CET, CCR, CRCR

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